



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Mitch Chance

Serial No.: 09/507,379

Group No.: 3652

Filed: February 18, 2000

Examiner: T. Tran

For: HYDRAULIC VEHICLE LIFT

Box AF

Assistant Commissioner for Patents
Washington, D.C. 20231

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APPELLANT'S BRIEF (37 C.F.R. § 1.192)

This Brief is in furtherance of the Notice of Appeal, filed in this case on January 28, 2003. The fees required under Section 1.17, for filing a brief in support of an appeal is attached to the enclosed TRANSMITTAL OF APPEAL BRIEF.

This Brief is transmitted in triplicate pursuant to 37 C.F.R. 1.192(a).

The final page of this Brief bears the practitioner's signature.

This Brief contains these items under the following headings, and in the order set forth below (37 C.F.R. § 1.192(c)):

I. REAL PARTY AND INTEREST (37 C.F.R. § 1.192(c)(1))

The real party and interest in this appeal is Mitch Chance, an individual residing at 610-A East Battlefield, Springfield, MO 65807.

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences which will directly affect, or be directly affected by, or have a bearing on the Board's decision in this appeal.

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III. STATUS OF CLAIMS

The status of the claims in this application is:

A. The total number of claims pending in the application is sixteen and they are numbered 1 through 16.

B. Status of All Claims.

1. Claims cancelled: 17, 18, 19 and 20 (cancelled in Office Action dated May 23, 2002.
2. Claims withdrawn from consideration: 4 [Nos. 17, 18, 19 and 20].
3. Claims pending: 1 through 16.
4. Claims allowed: None.
5. Claims rejected: 1 through 16.

C. Claims on Appeal.

1. The claims on appeal are: 1 through 16.

IV. STATUS OF AMENDMENTS

An amendment has been filed after final rejection. Applicant asserts that the amendment renders the pending claims allowable over the Examiner's rejections.

V. SUMMARY OF INVENTION

The present invention is a hydraulically operated vertical vehicle lift for elevating one vehicle over another. More particularly, the vehicle lift utilizes four large U-shaped columns which house the moving parts of the apparatus. A cable is attached substantially at the center of a top plate of each

column, and is then directed downward through the column and routed about pulleys which are attached to end blocks fixed to the cross-members which support the vehicle ramps. The end blocks retain the cross members within the U-shaped columns. A hydraulic cylinder under the ramp is used to shorten the cables to operatively elevate the lift. Because the cables are attached substantially at the center of each column, and the cables are maintained within the columns by pulleys located at the end blocks of each cross-member, substantially all of the force utilized to elevate the lift is directionally downward within the center of each column, thereby providing a substantial stability of the mechanism. Moreover, the fact that the majority of the moving parts of this device are located within each U-shaped column limits operator contact with moving parts. Additionally, the location of the moving parts within the column protects wear and exposure to the elements thereby extending the useful life of the device.

VI. ISSUES

The issues for this appeal are:

- (1) whether claims 8 and 16 are indefinite under 35 U.S.C. § 112.
- (2) whether claims 1, 2, 9 and 10 are unpatentable under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,139,597 to Martin.
- (3) whether the claims, more particularly identified below, are unpatentable under 35 U.S.C. § 103(a):
 - A. whether claims 1 through 4, 8 through 11 and 16 are unpatentable under 35 U.S.C. § 103(a) over France 2,576,298 (A1) (hereinafter FR '298) in view of U.S. Patent No. 2,216,058 to Thompson or GB 2,003,116 A (hereinafter GB '116).
 - B. whether claims 5 and 13 are unpatentable under 35 U.S.C. § 103(a) over U.S. Patent No. 2,139,597 to Martin in view of U.S. Patent No. 4,724,875 to Baldwin.

C. whether claims 5 and 13 are unpatentable under 35 U.S.C. § 103(a) over FR '298 in view of either Thompson or GB '116, further in view of Baldwin.

D. whether claims 6 and 14 are unpatentable under 35 U.S.C. § 103(a) Martin in view of U.S. Patent No. 3,536,161 to Clarke.

E. whether claims 6 and 14 are unpatentable under 35 U.S.C. § 103(a) over FR '298 in view of either Thompson or GB '116, further in view of Clarke.

F. whether claims 7 and 15 are unpatentable under 35 U.S.C. § 103(a) U.S. over Martin in view of U.S. Patent No. 4,076,216 to Nussbaum.

G. whether claims 7 and 15 are unpatentable under 35 U.S.C. § 103(a) over France '298 in view of either Thompson or GB '116, further in view of U.S. Patent No. 4,076,216 to Nussbaum.

H. whether claims 8 and 16 are unpatentable under 35 U.S.C. § 103(a) over Martin in view of U.S. Patent No. 2,624,546 to Haumerson.

As will be discussed in more detail below, the Examiner's rejection of the above-referenced claims is inappropriate and claims 1 through 16 are in fact allowable.

VII. GROUPING OF CLAIMS

Claim 1 is an independent claim from which claims 2 through 8 depend and accordingly stand or fall together sharing the common essential elements of claim 1.

Claim 9 is an independent claim from which 10 through 16 depend and according stand or fall together sharing the common elements of claim 9.

VIII. ARGUMENT:

REJECTION UNDER 35 U.S.C. § 112

Claims 8 and 16 stand rejected under 35 U.S.C. § 112 for containing subject matter which is not sufficiently described in the specification. The specification was, at page 15, lines 17 - 21 amended to clarify the function of the slidable shut off switch. As amended, the specification now clearly explains that the switch slides vertically within one of the columns. The switch is pre-positioned and then secured in place so that the cross members will contact the switch at that pre-determined vertical level thereby causing the lift to shut off. The Examiner asserts that one skilled in the art would not understand what is meant by "switch 114 may be slidably mounted" (specification page 15, lines 17 - 21). The plain meaning of this phrase would be that the switch is mounted in such a way that it is slidable. One skilled in the art surely would be aware of the numerous methods of mounting components of a vehicle lift in a manner that allows them to slide. For example, the switch could be mounted in a slot, along a track, with a magnet, on a spring, along a wire and so forth. Any of these mounting methods would allow the switch to be slid along the column.

The Examiner further states "it is not clear whether the vertical movement of the "slidable switch" or the "end block of the cross member" stops when "the cross member contacts the automatic shut off switch"." However, the Specification, as amended at page 15, lines 17 - 21, states: "... the shut off switch 114 is prepositioned at a point within the column 32, 34, 36 or 38, where it contacts a portion of the cross member end block 30 and is then secured in place. When the end block 30 contacts the shut off switch during subsequent operation of the vehicle lift, the shut off switch 114 will be activated and the electric supply to hydraulic pump 10 will be interrupted." As the Specification clearly describes the shut off switch being secured in place once it is at the desired position, prior to the end block contacting the switch, there can be no question that language of claims 8 and 16 in question are directed to the end block of the cross member, not the switch. Therefore, the movement of the cross members stop when they contact the switch which has already been secured in place.

Claims 8 and 16, in view of the amended Specification, clearly define the movement of the vehicle lift in perspective of the slidable shut off switch.

REJECTION UNDER 35 U.S.C. § 102

Claims 1, 2, 9, and 10 stand rejected under 35 U.S.C. § 102(b) as anticipated by Martin, U.S. Patent 2,139,597 ('597 patent). The '597 reference does in fact disclose a vehicle lift with several similarities to Applicant's device. However, the '597 reference does not include at least one pulley attached to each end block where the end block on the cross members are received in the receiver slot of each U-shaped column. Further, the cross members (reference numeral 4, in Fig. 1) of the '597 device do not have opposing end blocks 3, as identified by the Examiner. Rather, reference number 3 is the "extreme end of the frame bars 4 (Column 2, lines 17-21)." As distinguished in the pending Application, the end blocks are attached to the ends of the cross members (frame bars). The end blocks are and element of pending claims 1 and 9 which are not found in the '597 reference.

Pending claim 1 distinctly describes and claims the element of an end block at each end of the cross member, wherein the end block includes at least one pulley attached thereto. This is not found in the '597 reference. The '597 reference is quite similar to the known prior art disclosed by Applicant and shown in Applicant's Figure 11. Pending claim 9 specifically sets forth "at least one cable is maintained within the U-shaped column and is routed through a pulley on the end of one of the at least two cross rails received within the U-shaped column. . ." The Examiner states: "Re claim 9, as broadly claimed, at least one cables 9-11 of Martin is maintained within the U-shaped columns 2 when the ramps are at lower position." However, nothing within the '597 reference suggests this to be the case. In fact, the '597 reference specifically requires the use of a slide block (reference numeral 16) to connect the cable in the column(s) with the cable used to raise the lift because the device does not utilized the end blocks and attached pulleys of the pending application. As clearly set forth in the Specification and Claims, it is the end blocks on the cross members which are within the U-shaped columns. Because the pulleys are fixed

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to the end blocks, the cables are held within the columns until they are routed by the pulleys underneath the ramps.

The '597 reference, as is well known within the art, includes a cable attached to a column and a cross member where the cable is not maintained within the column. This improvement of the pending application is discussed in detail in the Specification and comprises a significant improvement in the industry. It is important to compare the configuration of the reference device with Applicant's device. As seen in Figures 1 and 2 of the '597 reference, the cables used to elevate the vehicle ramps depart the columns at an acute angle respective to the columns. This cable angle attributes to inward collapse of the columns and is one of the prior art limitations that Applicant's invention was specifically designed to overcome.

As each distinct element of claims 1 and 9 are not disclosed in the '597 reference, the pending claims are not anticipated. Moreover, because claim 2 depends from claim 1 and claim 10 depends from claim 9, neither dependant claim is anticipated.

REJECTION UNDER 35 U.S.C. § 103

A. Claims 1 through 4, 8 through 11 and 16 stand rejected as unpatentable under 35 U.S.C. § 103(a) over French 2,576,298 (A1) (hereinafter FR '298) in view of U.S. Patent No. 2,216,058 to Thompson (the '058 patent) or GB 2,003,116 A (hereinafter GB '116).

FR '298 does not disclose or claim end blocks attached to the cross members nor a top cap on the columns for attachment of the cables. The attempt to find those missing claim elements in the '058 patent or the GB '116 reference fails. In particular, the '058 patent discloses a vehicle lift which does not even utilize cables to elevate the lift ramps as described and claimed by Applicant. That reference incorporates gear wheel which "crawls" up a rod to elevate the ramps. Because the '058 reference pertains to a gear driven lift, it does not include the essential elements of a cable lift, the least of which is not the cables and pulleys.

The Examiner acknowledges that FR '298 does not disclose a cable fixed substantially at the center of each top cap, but asserts that it would have been obvious to one skilled in the art at the time of invention "in order to replace cables quicker." This assertion finds no support within any of the references relied upon. The positioning of the cable within the column, as taught by Applicant" is to eliminate non-vertical forces imparted on the columns of a vehicle lift when the cable is positioned in a traditional location near an edge, or even outside of the column. Locating the cable near a side of the column causes the column to be pulled in that direction when suspending and lifting the weight of a vehicle. In actuality, cables connected at an edge of the column can be replaced much quicker than cables fixed in the center of the partially enclosed column.

FR '298 also fails to teach or describe the end blocks attached to the cross members received in each column. The specification of that reference discloses: "each cable 12 passes over a return pulley 13 affixed to the corresponding end of the crosspiece 6 or 7" Thus, in FR '298, the pulleys are attached directly to the ends of the cross member (similar to the Martin '597 patent) and not to end blocks. As taught by Applicant, the end blocks are important because they "limit(s) lateral movement of the cross member 26 or 28 within the U-shaped columns . . . " which stabilizes the lift during operation (Specification p. 13, lines 1 -4).

As disclosed and described in the pending application, the use of end blocks and the central location of cable attachment at the top cap of each column is essential to decrease the angular stresses imparted on the device during elevation of a weighty vehicle. Independent claims 1 and 9 have all been amended to specifically claim attachment of the lifting cable to a central point at the top cap of each of the spaced apart U-shaped column. Both the FR '298 patent and the 'GB '116 patent teach attachment of the lifting cable at or substantially near one of the sides of each support column of the lifting device. The positioning of the cable fastening point at the columns, along with the position of the pulleys on the cross members is important to define the directional forces which will be sustained by the device during operation. Both of the references teach away from fixing cable ends at a centralized location at the top of

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each column to retain the cable wholly within each of the support columns. Further, there is no motivation to combine the two references to arrive at the invention of the pending application. Without a suggestion or instruction to combine the two references, such combination is inappropriate.

B. Claims 5 and 13 stand rejected as unpatentable under 35 U.S.C. § 103(a) over U.S. Patent No. 2,139,597 to Martin in view of U.S. Patent No. 4,724,875 to Baldwin.

As discussed above, pending claims 1 and 9, from which claims 5 and 13 depend distinctly describes and claims the element of an end block at each end of the cross member, wherein the end block includes at least one pulley attached thereto. Neither cross member end blocks nor a removable drip tray are found in the '597 reference. The Examiner points to the '875 reference as having a drip tray 74 removably mounted between the spaced apart ramps. However, reference number 74 is directed to a oil pan in the '875 reference. The oil pan is specifically used for catching oil during oil change operations and is not a drip pan which is mounted between the ramps which catches common drips and leaks from the engine or undercarriage of the elevated vehicle. While an "oil pan" is found in the Baldwin reference, the end blocks on the cross members are not. This is because the Baldwin patent is drawn to a trailer mounted oil changing station and not a vehicle lift. The lifting apparatus of Baldwin is a simple hydraulic ram which does not use cables, pulleys or even columns. One skilled in the art of designing vehicle lifts would not be expected to research and be familiar with patents such as Baldwin which essentially discloses a vehicle jack, not a lift of the type claimed by Applicant.

There is no motivation to combine the two references to arrive at the invention of the pending claims. Without a suggestion or instruction to combine the two references, such combination is inappropriate. Even if it were permissible to combine elements of these two references, not all of the elements of claims 5 and 13 would be found. End blocks attached to the lift cross members would still be missing.

C. Claims 5 and 13 stand rejected as unpatentable under 35 U.S.C. § 103(a) over FR '298 in view of either Thompson ('058 patent) or GB '116, as applied to claims 2 and 9 and further in view of Baldwin.

Here, dependant claims 5 and 13 are rejected under a combination of at least three distinct references, none of which independently anticipate the claims, nor which have any suggestion to combine their teachings. Again, FR '298 does not teach end blocks attached to the cross members nor a top cap on the columns for attachment of the cables, both of which are essential elements of claims 1 and 9 from which claims 5 and 13 depend. The '058 patent discloses a vehicle lift which does not even utilize cables to elevate the lift ramps as described and claimed by Applicant. That reference incorporates gear wheel which "crawls" up a rod to elevate the ramps. Because the '058 reference pertains to a gear driven lift, it does not include the essential elements of a cable lift, the least of which is not the cables and pulleys. GB '116 does disclose a top cap on each of four spaced apart columns with a cable end attached at each top cap. However, no disclosure of attaching the cable at the center of the top cap can be found.

The Examiner points to the '875 reference as having a drip tray 74 removably mounted between the spaced apart ramps. However, reference number 74 is directed to a oil pan in the '875 reference. The oil pan is specifically used for catching oil during oil change operations and is not a drip pan which is mounted between the ramps which catches common drips and leaks from the engine or undercarriage of the elevated vehicle. While an "oil pan" is found in the Baldwin reference, the end blocks on the cross members are not. This is because the Baldwin patent is drawn to a trailer mounted oil changing station and not a vehicle lift. The lifting apparatus of Baldwin is a simple hydraulic ram which does not use cables, pulleys or even columns.

It is inappropriate to jumble together various elements of three distinct references in an attempt to declare claims obvious without some suggestion within the references themselves to do so. There is no motivation to combine the references and it is unlikely that any such combination would have resulted in the success of Applicant's invention. Dependent claims 5 and 13 rise or fall with the independent claims

1 and 9 respectively. Even if it were permissible to combine elements of these two references, not all of the elements of claims 5 and 13 would be found because not all elements of the independent claims are present.

D. Claims 6 and 14 stand rejected as unpatentable under 35 U.S.C. § 103(a) Martin (the '597 patent) in view of U.S. Patent No. 3,536,161 to Clarke (the '161 patent).

As discussed above, the '597 patent does not teach end blocks mounted to the cross member of the lift. The end blocks are essential elements of claims 1 and 9, from which claims 6 and 14 depend. These dependent claims add the claim element of casters mounted adjacent the four columns which allow the lift to be rolled about. The '161 patent does disclose wheels which, when no vehicle is on the lift, can be used to move the lift. As best shown in Figures 1 and 2 of the '161 patent, the casters are not mounted adjacent the columns in a manner which allows the lift to be moved about when a vehicle is elevated on the lift. Rather, the wheels are attached to the ramp elements of that lift which only allow the wheels to contact the ground when the ramps are at their lowermost position. Applicant, however, teaches casters mounted adjacent the base of each columns which allow the lift to be moved even when a vehicle is elevated on the lift.

Moreover, there is no motivation or suggestion within any of the references relied upon to combine them and it is therefore inappropriate to do so. Dependent claims 6 and 14 rise or fall with the independent claims 1 and 9 respectively. Because, even in combination, not all of the claim elements of dependant claims 6 and 14 are found in the references, this rejection is inappropriate.

E. Claims 6 and 14 stand rejected as unpatentable under 35 U.S.C. § 103(a) over FR '298 in view of either Thompson ('058 patent) or GB '116, further in view of Clarke ('161 patent).

As discussed above, FR' 298 does not teach end blocks attached to the cross members nor a top cap on the columns for attachment of the cables, both of which are essential elements of claims 1 and 9

from which claims 6 and 14 depend. The '058 patent discloses a vehicle lift which does not even utilize cables to elevate the lift ramps as described and claimed by Applicant. That reference incorporates gear wheel which "crawls" up a rod to elevate the ramps. Because the '058 reference pertains to a gear driven lift, it does not include the essential elements of a cable lift, the least of which is not the cables and pulleys.

The '161 patent does disclose wheels which, when no vehicle is on the lift, can be used to move the lift. As best shown in Figures 1 and 2 of the '161 patent, the casters are not mounted adjacent the columns in a manner which allows the lift to be moved about when a vehicle is elevated on the lift. Rather, the wheels are attached to the ramp elements of that lift which only allow the wheels to contact the ground when the ramps are at their lowermost position. Applicant, however, teaches casters mounted adjacent the base of each columns which allow the lift to be moved even when a vehicle is elevated on the lift.

Moreover, there is no motivation or suggestion within any of the references relied upon to combine them and it is therefore inappropriate to do so. Dependent claims 6 and 14 rise or fall with the independent claims 1 and 9 respectively. Because, even in combination, not all of the claim elements of dependant claims 6 and 14 are found in the references, this rejection is inappropriate.

F. Claims 7 and 15 stand rejected as unpatentable under 35 U.S.C. § 103(a) U.S. over Martin ('597) in view of Nussbaum, U.S. Patent No. 4,076,216 (the '216 patent).

Dependent claim 7 and 15 add the element of a flexible slotted dust cover mounted across each cross member receiver slot of the four spaced apart U-shaped columns. The '216 reference does not teach a flexible slotted dust cover, rather it describes the inclusion of two slits in a rigid plate which accommodate flaps of a cover strip to protect against the accumulation of dirt and from damage to

internal components. The '216 cover strip is not described or claimed as a "flexible slotted dust cover". Regardless, dependent claims 7 and 15 rise or fall with the independent claims 1 and 9 respectively.

Further, there is no motivation or suggestion to combine the references and it is therefore inappropriate to do so.

G. Claims 7 and 15 stand rejected as unpatentable under 35 U.S.C. § 103(a) over FR '298 in view of either Thompson ('058 patent) or GB '116, further in view of Nussbaum ('216 patent).

Again, independent claims 1 and 9 are not anticipated or rendered obvious by any of the references cited. As discussed extensively above, neither FR '298, the '058 patent or GB '116 teach or disclose the elements of the independent claims from which claims 7 and 15 depend. The '216 reference does not disclose or teach a "flexible slotted dust cover". The "cover" of the '216 patent is not slotted and must be removed from the device to access the inner workings. Applicant's slotted dust cover is flexible and allows a user to access the interior of each U-shaped column without removal while preventing dust and contaminants to enter the column. This is not suggested or taught within the '216 reference.

Moreover, there is no motivation or suggestion within any of the references relied upon to combine them and it is therefore inappropriate to do so. Dependent claims 7 and 15 rise or fall with the independent claims 1 and 9 respectively. Because, even in combination, not all of the claim elements of dependant claims 7 and 15 are found in the references, this rejection is inappropriate.

H. Claims 8 and 16 stand rejected as unpatentable under 35 U.S.C. § 103(a) over Martin ('579 patent) in view of U.S. Patent No. 2,624,546 to Haumerson ('the '546 patent).

As asserted above, the '579 patent does not disclose all of the claim elements of independent claims 1 and 9 because it doesn't disclose or teach end blocks on cross members within the U-shaped columns. The '546 reference does discuss a "limit switch" mounted to an arm which can be positioned

near the motor to stop the motor when the "lifting frame reaches the desired lower limit of its travel." (Column 12, lines 52-59 of the '546 reference). This teaches exactly the opposite of Applicant, who teaches a shut off switch in at least one of the columns which will shut off the device when the lift is at its preferred elevation.

There is no motivation or suggestion within either of the references to combine the elements therein and it is therefore inappropriate to do so. Dependent claims 8 and 16 rise or fall with the independent claims 1 and 9 respectively. In light of Applicant's amendments to the independent claims, it is asserted that the independent claims are not rendered obvious by the '579 reference, the '546 patent, or any combination thereof.

**THE PRIOR ART DOES NOT TEACH ALL THE FEATURES
OF THE PRESENT INVENTION**

When considering prior art, the prior reference as a whole must be considered for what it teaches. "It is impermissible within the framework of Section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." *In re Wesslau*, 353 F.2d 238, 241, 147 USPQ 391, 393 (CCPA 1965). *See also Bausch & Lomb, Inc. v. Barnes-Hind Hydrocurve, Inc.* 796 F.2d 443, 448-49, 230 USPQ 416, 419-20 (Fed. Cir. 1986) (holding that the District Court, by failing to consider a prior art reference in its entirety, ignored portions of the reference that lead away from obviousness), *cert. denied* 484 U.S. 823 (1987).

It is not permitted to first determine what it was the inventor did and then select only those facts from the prior art which may be modified to construct the invention from the prior art. *In re Shuman*, 361 F.2d 1008, 150 USPQ 54 (CCPA 1966). One "cannot pick and choose among the individual elements of assorted prior art references to recreate the claimed invention." *SmithKline Diagnostics, Inc. v. Helena Labs. Corp.* 859 F.2d 878, 887, 8 USPQ 2d 1468, 1475 (Fed. Cir. 1988). It is not proper that prior art references be cobbled together and "employed as a mosaic to recreate a facsimile of the claimed

invention.” *W. L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1552, 220 USPQ 303, 312 (Fed. Cir. 1983).

In the present case, when any of the references are considered as a whole, they do not teach or suggest the vehicle lift of the present invention. Principally, the cited prior art references do not teach or suggest the use of end blocks at the ends of the ramp cross members to retain the pulleys and associated cables within the U-shaped columns. This feature, along with the location of the cable fastened substantially at the center of each top cap of each column, limits forces imparted during the lifting of a vehicle vertically along, and centrally within, each column. The combination of the end blocks and the central location of cables within each column is a significant improvement over the prior art because that configuration limits collapse potential common in the prior art lifts caused by directionally inward forces caused by cables outside or adjacent the columns.

There is no suggestion in any of the patents referenced to combine their teachings. In the absence of a suggestion or teaching in the references themselves, it is impermissible to simply combine the patents. *ACS Hospital Systems v. Montefiore Hospital*, 732 F.2d 1572, 221 USPQ 929 (CAFC 1984); *In re Geiger*, 815 F.2d 686 (CAFC 1987).

The fact that the reference mentions an element or portion of the claimed invention of an applicant does not support a finding of obviousness, unless the mentioned element or portion of the claimed invention has some connection or bearing in the field of art. For example, Baldwin mentions the use of an oil pan which has been equated with the drip tray of pending claims 5 and 13. However, upon a careful review of the Baldwin reference we learn that the oil pan is actually a pan used for changing oil, not catching oil drips. In fact, the Baldwin reference is directed to a vehicle jacking system for oil changes, not an actual vehicle lift which allows one vehicle to be stored under another, such as that claimed by Applicant.

It is without dispute that there are limited ways to describe and claim certain claim elements. However, just because a pending claim uses the same or similar wording as a reference, does not mean that the elements are the same. It is necessary to further investigate the reference for similar purpose and function of each claim element. It is necessary to investigate beyond the drawings and the names of parts. A great example of this is the Examiner's assertion that Thompson (the '058 patent) discloses "a vehicle lift comprising a plurality of columns each having a cap at one end for attaching ropes/cables." Briefly looking at the drawings of the '058 patent, this appears to be the case. However, upon reading the specification and claims, one finds that this reference does not even pertain to a pulley and cable vehicle lift but rather an old fashioned worm gear lift. No cables or ropes are used in that device. Therefore, it is impossible that the cap on the column is for attaching ropes/cables.

THERE IS NO MOTIVATION TO COMBINE THE REFERENCES

"When prior art references require selected combinations . . . to render obvious the subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself." *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985); *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051, 5 USPQ 2d 1434, 1438 (Fed. Cir. 1988). The prior art must contain some suggestion or incentive that would have motivated one with skill in the art to modify a prior art reference to arrive at the present invention. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988); *Ex parte Skinner*, 2 USPQ2d 1788 (Bd. Pat. App. & Int. 1986). The prior art must also indicate a reasonable expectation of success to make the modifications, determined from the vantage point of one of ordinary skill in the art at the time the invention was made. Thus, there must be both a suggestion to modify and an expectation of success found in the prior art, not in the applicant's disclosure, to render an invention obvious. *In re Dow Chemical Co.*, 837 F.2d 469, 473, 5 USPQ 2d 1529, 1531 (Fed. Cir. 1988). "The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification."

MPEP section 2143.01; *In re Gordon*, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984); *See also In re Mills*, 916 F.2d 680, 682, 16 USPQ2d 1430, 1432 (Fed. Cir. 1990).

It is not uncommon for an Examiner to find every element of a claimed invention in combinations of the prior art.

If identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue. Furthermore, rejecting patents solely by finding prior art corollaries for the claimed elements would permit an Examiner to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention. Such an approach would be an illogical and inappropriate process by which to determine patentability.

In re Rouffet, No. 97-1492, 1998 WL 400169, *5 (Fed. Cir., July 15, 1998) (citation omitted). Further, it is required that the Examiner show a motivation to combine the references to render the present invention obvious. *Id.* at *6. “In other words, the Examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed.” *Id.* If there is no such showing, then it must be inferred “that the Examiner selected these references with the assistance of hindsight.” *Id.*

In the present case, the Examiner shows no reasons that a skilled artisan, confronted with the same problems as the present inventor and with no knowledge of this invention, would select to combine the references relied upon to arrive at the present invention.

CONCLUSION

Each and every element described and claimed by Applicant can not be found, and has not been specifically pointed out and identified by the Examiner, in the Martin reference. Therefore, Martin does not anticipate the present invention, and rejection under section 102(b) is not appropriate. Further, rejection under section 103(a) is not appropriate because none of the cited prior art references teach, suggest, or even hint at the features of the present invention discussed above, it could not possibly be

obvious to combine these references to arrive at the present invention having features that none of the references even hint at. While most of the reference admittedly disclose vehicle lifts, these lifts are distinguishable from Applicant's invention and particularly the elements of the pending claims.

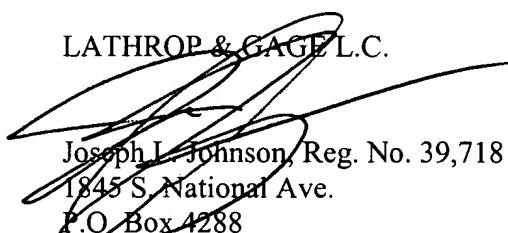
Importantly, none of the references, alone or in combination, teach or suggest a vehicle lift which uses block ends on the ramp supports (cross members) to retain cable and pulleys within U-shaped columns. This feature, in combination with the unique position of the cable attachment at the center of a top cap on each column overcomes the deficiencies of the stated prior art.

The attempt to jumble together pieces and parts of a vehicle lifts from numerous prior art references in an effort to render Applicant's claims obvious is without precedent and should be rejected. As discussed in detail herein, none of the references contain any suggestion or incentive that would motive one with skill in the art to modify the reference to arrive at the present invention. Nor does any reference indicate any reasonable expectation of success to make such modifications. Because there are no suggestions to modify or expectations of success found in the cited prior art, and the Examiner pieced together the references on hindsight based on the present invention, the present invention cannot possibly be unpatentable under the 35 U.S.C. §§ 102, 103.

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Respectfully submitted,

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APPENDIX OF CLAIMS

1. A vehicle lift comprising:
 - a) a pair of spaced-apart ramps;
 - b) at least two cross members attached to and supporting the pair of spaced-apart ramps, each of the at least two cross members further having at least two opposed end blocks and at least one pulley attached to each end block;
 - c) four spaced-apart U-shaped columns, each of the U-shaped columns having a base, a top cap, located opposite the base, and a cross member receiver slot wherein the end blocks on the cross members are slidingly received in the slot;
 - d) a hydraulic cylinder; and,
 - e) a plurality of cables, each cable fixed at one end substantially in the center of the top cap of one of the U-shaped columns and the opposite end to the hydraulic cylinder, so that when the hydraulic cylinder is actuated, upward and downward movement of the cross members and the spaced-apart ramps occurs.
2. The vehicle lift of claim 1, further comprising a plurality of spaced-apart locking tabs fixed in at least one of the four spaced-apart U-shaped columns.

3. The vehicle lift of claim 2, further comprising a locking mechanism fixed to at least one of the end blocks of the at least two cross members, adjacent the at least one U-shaped column having a plurality of spaced-apart locking tabs fixed therein, the locking mechanism further comprising a locking latch linked to a mechanical lever whereby actuation of the mechanical lever causes the locking latch to engage one of the plurality of spaced apart locking tabs in the U-shaped column, thereby preventing vertical movement of the cross member within the cross member receiver.

4. The vehicle lift of claim 2, further comprising at least one tire block removably mounted on at least one of the spaced-apart ramps.

5. The vehicle lift of claim 2, further comprising at least one drip tray removably mounted between the pair of spaced apart ramps.

6. The vehicle lift of claim 2, further comprising a caster mounted adjacent the base of each of the four spaced-apart U-shaped columns.

7. The vehicle lift of claim 2 further comprising a flexible slotted dust cover mounted over the cross member receiver slot of each of the four spaced-apart U-shaped columns.

8. The vehicle lift of claim 2, further comprising an automatic shut off switch slidably mounted within at least one of the four spaced-apart U-shaped columns, substantially adjacent the cable therein such that when during vertical movement, the end block of the cross member contacts the automatic shut off switch, the vertical movement stops.

9 A vehicle lift, comprising:

- a) four spaced-apart U-shaped columns, each having a base and a top cap;
- b) a pair of ramps;
- c) at least two cross members supporting the pair of ramps, each of the at least two cross members having opposing ends slidably received and held within a cross member receiver slot in one of the four spaced-apart U-shaped columns;
- d) a hydraulic cylinder;
- e) at least one cable having a securing end fastened substantially at the center position of the top cap of one of the four spaced-apart U-shaped columns and further having a pulling end attached to the hydraulic cylinder; and

wherein the at least one cable is maintained within the U-shaped column and is routed through a pulley on the end of one of the at least two cross members received within the U-shaped column, such that when operated, the hydraulic cylinder pulls said at least one cable through the pulley thereby raising the at least two cross members and the pair of ramps.

10. The vehicle lift of claim 9, further comprising a plurality of spaced-apart locking tabs fixed in at least one of the four spaced-apart U-shaped columns.

11. The vehicle lift of claim 9, further comprising a locking mechanism fixed to at least one of the end blocks of the at least two cross members, adjacent the at least one U-shaped column having a plurality of spaced-apart locking tabs fixed therein, the locking mechanism further comprising a locking latch linked to a mechanical lever whereby actuation of the mechanical lever causes the locking latch to engage one of the plurality of spaced apart locking tabs in the U-shaped column, thereby preventing vertical movement of the cross member within the cross member receiver slot.
12. The vehicle lift of claim 9, further comprising at least one tire block removably mounted on at least one of the spaced-apart ramps.
13. The vehicle lift of claim 9, further comprising at least one drip tray removably mounted between the pair of spaced apart ramps.
14. The vehicle lift of claim 9, further comprising a caster mounted adjacent the base of each of the four spaced-apart U-shaped columns.
15. The vehicle lift of claim 9 further comprising a flexible slotted dust cover mounted over the cross member receiver slot of each of the four spaced-apart U-shaped columns.

16. The vehicle lift of claim 9, further comprising an automatic shut off switch slidably mounted within at least one of the four spaced-apart U-shaped columns, substantially adjacent the cable therein such that when during vertical movement, the end block of the cross member contacts the automatic shut off switch, the vertical movement stops.